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SUPREME COURT, U.S.

No. 99-584

In The
**Supreme Court of the United States**

JOAN E. CAVALLARO,
Petitioner
v.
KEITH GALLANT, ADM.,
Respondent

**On Petition For A Writ of Certiorari**
**To The Connecticut Court Of Appeals**

# REPLY BRIEF

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RESPONSE TO WAIVER

It is always heartening when one's opposition fails to present any legal argument or citation which contravenes the Petition for Writ of Certiorari.

The flip side of a Waiver however is the presentation that the controversy at hand is not important enough to warrant final consideration by this Court. I disagree.

This Court has emphasized that issues regarding Administrator's affecting sale and title of real estate are of "great importance"(Chief justice Marshall, observation in delivering opinion, cited in Williamson *et al.* v Berry 12 L.Ed. 1170,1199).

The points in this case have been addressed and decided by the Supreme Courts of numerous states. (Administrator lacks standing to institute partition action (Crigler v Frame 632 S.W.2d 94,95-6 (Missouri)), absent specific directions in the will or statute, which must be explicit (Nelson v Haisley 39 Fla 135, Ryer v Fletcher-Ryer Co. 58 P. 908,909-10 (California)), is never "interested" within the meaning of the statute (Calmese v Weinstein 351 S.W.2d 437,439 (Arkansas), Garrison v Cox 99 NC 478, Nason v Willard 2 Mass 478, Wood v Bryant 68 Miss 198)), even if assets are needed to pay debts (Owings v Owings 114 N.W. 393 (Michigan), Throckmorton v Pence 25 S.W. 843,844 (Missouri), Nason v Willard op cit., Wood v Bryant op cit.), recourse being elsewhere and statutory (Owings v Owings op cit., Throckmorton v Pence op cit., Wood v Bryant op cit.), and such cases are regularly dismissed and dismissed *sua sponte* (Crigler v Frame op cit., Calmese v Weinstein op cit., Owings v Owings op cit., Throckmorton v Pence op cit., Romero v Rader 146 La 964, Nason v Willard op cit., and the Connecticut cases as cited in the Petition for Writ of Certiorari at pp. 10, A-24-5, A-30-33)).

No statute in Connecticut gives an administrator the right to partition (Petition for Writ of Certiorari, p.10).

This case stands at a juxtaposition of three vital issues:

The role of the court in making substantive versus procedural law ("The mode of subjecting the property of a debtor to the demands of a creditor must always depend on the wisdom of the legislature" (regarding state law) Bank of Hamilton v Lessee of Ambrose Dudley, Jun. 7 L.Ed. 496,522).

That the legal principle that a lienholder or creditor is not converted to a holder of an ownership interest maintains in partition actions as well as elsewhere (Calmese v Weinstein op cit.,440, Speer v Speer 14 N.J.Eq. 240,251, Vail v Hammond 60 Conn 374).

That *Pro Ses* have the Constitutional right to Equal Protection of the law when they access their courts.

This case meets the test of importance.

## Conclusion

The case at hand merits granting of Certiorari or summary dismissal of the original action under Rule 16 of the Rules of the Supreme Court of the United States.

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